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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,530	08/04/2000	J. Richard Spears	DYNX.0002	1489
27405	7590	03/04/2004		
THEROX, INC. 2400 MICHELSON DRIVE IRVINE, CA 92612			EXAMINER BARRY, CHESTER T	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/632,530

**Applicant(s)**

SPEARS ET AL.

**Examiner**

Chester T. Barry

**Art Unit**

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/9/04 (9/22/03).  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 76, 30, 38 - 41, 63-69, 77-79 is/are pending in the application.  
4a) Of the above claim(s) 2 - 29, 31-37, 42-48, 70-75 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☒ Claim(s) 1, 76, 30, 38 - 41, 63-69, 77-79 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

Claims 1, 76, 30, 38 – 41, 63-69, 77-79 are generic to a plurality of disclosed patentably distinct species comprising:

Group A (different gases):<sup>1</sup>

- A<sub>1</sub> oxygen
- A<sub>2</sub> ozone
- A<sub>3</sub> carbon monoxide
- A<sub>4</sub> carbon dioxide
- A<sub>5</sub> hydrogen
- A<sub>6</sub> nitrogen
- A<sub>7</sub> air
- A<sub>8</sub> chorine gas [sic, chlorine]

Group B (different types of "wastewater"):<sup>2</sup>

- B<sub>1</sub> municipal, i.e., sewerage and storm water discharge
- B<sub>2</sub> industrial, e.g., oil, food, paper, steel, and chemical industry
- B<sub>3</sub> natural body water, e.g., lake/stream water, ground water
- B<sub>4</sub> landfill leachate
- B<sub>5</sub> drinking water
- B<sub>6</sub> agricultural
- B<sub>7</sub> aquacultural

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It should be understood that the gas supplied by the gas supply assembly described below may include oxygen, ozone, carbon monoxide, carbon dioxide, hydrogen, nitrogen, air, chorine gas, and/or other treatment gases, while the gas-enriching assembly described below advantageously includes a gas-absorption assembly capable of raising the dissolved gas content of the fluid provided by the fluid supply assembly described below. However, again for the sake of clarity and conciseness, the use of oxygen gas will be primarily discussed herein by way of example.

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For the sake of clarity and convenience, the various embodiments are described herein in the context of applications generally involving municipal wastewater treatment, including treatment of CSOs, SSOs, and storm water discharges. However, the present invention may also

be useful in other applications, such as industrial wastewater treatment, e.g., in the petroleum, food, pulp and paper, and steel industries; lake and stream restoration and/or wastewater treatment; chemical wastewater treatment; landfill wastewater treatment; ground water treatment; drinking water disinfection with ozone; agricultural or aquacultural water treatment; odor control (e.g., on farms); etc. Also, although the present system may be used to raise gas levels, such as oxygen for example, in water or other fluids, for the sake of clarity and convenience reference is made herein only to wastewater applications.

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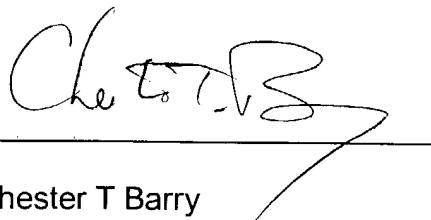
Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from **each** of groups A and B., even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Claims 2 – 29, 31-37, 42-48, 70-75 are pending, but remain withdrawn as directed to a previously non-elected invention.

Claims 49 – 62 remain cancelled.

Respectfully,

A handwritten signature in cursive script, appearing to read "Chester T. Barry", is written over a horizontal line.

Chester T Barry

Examiner GAU 1724

571-272-1152